



**Administrative Regulation**  
**Investigations**

<b>Policy #</b>	03-08.03
<b>Effective Date:</b>	March 20, 2018
<b>Revision Date:</b>	N/A
<b>Owner:</b>	Human Resources

**Purpose:**

This administrative regulation has been developed to establish a consistent and systematic means of investigating employee behavior and actions that do not meet the expectations of the City.

**Scope:**

This administrative regulation applies to complaints, reports, and inquiries about matters that appear to be inappropriate, illegal, or inconsistent with City policy or that may threaten City employees or assets. It does not apply to routine work place issues, differences of opinion, or workplace matters the complainant merely does not like or with which the complainant simply disagrees, or matters related to employee performance management or appraisal.

**Policy:**

The City shall conduct appropriate investigations into issues reported to the City as provided in this procedure. Employees, customers, vendors, members of the community or other stakeholders may report any matter that appears to be inappropriate, illegal, or inconsistent with City regulations, or that may threaten City employees or assets under any applicable law, regulation, order, policy, or procedure. Individuals are encouraged to make any reports of workplace misconduct as soon as possible after learning or witnessing the conduct in question. The longer an individual waits to report the conduct, the more difficult it will be to conduct an effective investigation. Employees may have a duty to report harassment or hostile work environment incidents and should consult that administrative regulation for more information.

**Procedure:**

1. Reporting.

- 1.1. Routine workplace issues, ordinary differences of opinion, performance management or reviews, or other matters should be reported and managed through the employee's department management team, unless the matter involves the complainant's management chain.
- 1.2. All complaints involving the following matters shall be immediately reported to the Director of Human Resources, and thereafter be managed in accordance with applicable administrative regulations:
  - 1.2.1. Any claim of sexual harassment or sexual assault.

- 1.2.2. Any claim of harassment or discrimination based on race, color, national origin, gender identification, gender (including pregnancy-related conditions), religion, retaliation, association with protected class, age, veteran status, physical or mental disability or other characteristic protected by federal, state, or local law.
  - 1.2.3. Any claim of criminal activity, fraud, or dishonesty involving City or customer funds, resources, or assets.
  - 1.2.4. Any matters alleging illegal violence or abuse of or by outside individuals in connection with City duties.
  - 1.2.5. Any matters involving workplace violence or a threat of workplace violence by any employee in the workplace.
  - 1.2.6. Any claim labeled by an employee as a “whistleblowing complaint.”
  - 1.2.7. Any matter alleging retaliation for filing a good faith complaint or cooperating in the investigation.
  - 1.2.8. Any matter involving an outside attorney, law firm, law enforcement agency, or government regulator, or where litigation is more than causally threatened.
- 1.3. If an employee believes that they are witnessing or have witnessed a crime, particularly one of a violent nature, the employee should notify the police immediately. When the situation is safe, the employee shall notify their supervisor and/or Human Resources.
- 1.4. In providing responses to complaints, information regarding any disciplinary action against other employees may be disclosed only with the consent of the Director of Human Resources in consultation with the City Attorney’s Office.
2. Conducting Investigations.
  - 2.1. Investigations shall be conducted appropriately and timely using reasonable prudence.
  - 2.2. The investigation will evaluate the allegation(s), formulate a response that addresses the facts as they are determined, and follow up to ensure that the necessary action steps are completed.
  - 2.3. Not all workplace investigations require a formal and comprehensive approach. Depending on the nature of the complaint, sometimes an informal and relatively quick inquiry provides all of the information needed to reach a conclusion and resolution. Typically an informal approach is used for matters related to:
    - 2.3.1. A potential misunderstanding of a City policy

- 2.3.2. A lack of communication between reporting employee and their supervisor or co-workers
- 2.3.3. No other facts are needed to resolve the issue
- 2.3.4. Requires no other resources for impartial and timely resolution
- 2.3.5. The employee is amenable to informal resolution
- 2.4. The City retains its right to conduct interviews using audio or video recording equipment.
- 2.5. A Garrity warning shall be issued when criminal activity may be suspected.
- 2.6. The City reserves its right to use other investigative techniques, including, but not limited to: video surveillance, telephone surveillance, surveillance of employer provided or subsidized smartphones or computers, data tracking (including global positioning system (GPS) information and internet usage), and tracking of employee key card entry or password entry systems.
- 2.7. In some situations, the City will require the involvement of outside investigators.
- 2.8. Investigations should be properly documented to support any management action and retained where they can be accessed if later needed by the City as required under the Oregon Records Retention Schedule.
- 2.9. Within a reasonable time, and in consultation with Human Resources, the department shall ensure a response is provided to the reporting employee indicating the status of the reported issue.
- 3. Cooperation in an Investigation
  - 3.1. Employees are required to cooperate with the City's agents at all times before, during, and after the conclusion of an investigation. Failure by any employee to cooperate with an ongoing investigation is considered grounds for discipline, up to and including termination. Similarly, failure to be completely honest or forthcoming in the course of an investigation is also grounds for discipline, up to and including termination.
  - 3.2. The City reserves the right to place employees on paid administrative leave during an investigation. If an employee is placed on administrative leave they must be available to be interviewed or cooperate with the investigation during normal business hours.
    - 3.2.1. An employee on administrative leave must be available to be interviewed or cooperate with the investigation during their normal working hours or other hours as specified by their supervisor. If the employee is sick or is otherwise unavailable

during administrative leave, notification should be given to their supervisor so the timecard can be properly coded.

#### 4. Witness Interviews

- 4.1. Any employee who makes a written or verbal complaint regarding workplace misconduct or any witness thereto should expect to be interviewed.
- 4.2. Employee witnesses are required and expected to bring any available evidence and any written complaints they made regarding the subject of the investigation to the witness interview.

#### 5. Confidentiality

- 5.1. The City will strive to protect the confidentiality of the reporting employee(s) whenever possible while remaining in compliance with the law. In some situations, the law requires employees who make accusations to attach their names to official reports or otherwise make themselves available to cooperate with outside regulators or law enforcement personnel. The City reserves its right to disclose the identity of a complaining employee where the City has determined that such disclosure is in compliance with or required by law in order to complete the investigation.
- 5.2. The City also has a compelling interest in protecting the integrity of its investigations. In every investigation, the City will make best efforts to protect witnesses from harassment, intimidation, and retaliation; to keep evidence from being destroyed; to ensure that testimony is not fabricated; and to prevent cover-ups.
  - 5.2.1. The City may decide in some circumstances that in order to achieve these objectives, the City must maintain the investigation in strict confidence.
  - 5.2.2. The City will make its best effort to ensure that only the accused employee, the accused's supervisor(s), Human Resources, and any other necessary body or agent will learn the outcome of an investigation resulting in discipline.
- 5.3. If the City, during or after an investigation, finds a crime or violation of law may have occurred, the City shall report it to the appropriate authorities for further investigation or action.

#### 6. Outcomes

- 6.1. The standard of proof in internal employment-related investigations does not rise to the level of the judicial system but rather is based on a good faith investigation leading to a reasonable conclusion.
- 6.2. Employees accused and investigated for misconduct have the right to request a summary of the completed investigation. Specific identifying information may be redacted.

- 6.3. When the outcome indicates sufficient evidence to support the reported complaint, the department leader will take steps to correct the issue. The department leader must take prompt action consistent with the severity of the offense. Leaders should follow the procedure outlined in the Corrective Action administrative regulation.
7. Non-Retaliation. The City will not take retaliatory action against employees for reporting incidents of workplace misconduct so long as it is determined that the employee made the report in good faith. The employee should seek advice from Human Resources if in doubt as to whether an incident is considered misconduct. \
8. Union Employees. Employees who are members of a union are entitled to have a union representative present during the witness interview, provided this provision does not conflict with the Collective Bargaining Agreement (CBA). If the employee belongs to a union but prefers that a union representative not accompany him or her to a witness interview, the employee is required to submit such preference in writing to Human Resources.
9. Appeals to Corrective Action. Employees wishing to appeal the discipline process may follow the grievance administrative regulation.
10. Record Retention. All investigations shall be properly documented. Records regarding all information reported and internal investigations shall be forwarded and maintained in the Human Resources department in compliance with records retention policies

## **Definitions**

1. “*Investigation*” is a systematic inquiry, careful examination, or search to discover facts, details and evidence to reach a conclusion.
2. “*Misconduct*” is any action by an employee which adversely affects the employee’s ability property or the public to perform assigned duties properly, impairs customer service, discredits the City’s image, threatens the safe and productive conduct of City operations, or endangers City personnel.

## **Resources:**

### *Administrative Regulations:*

1. [Corrective Action](#)
2. [Grievance: Non-Union](#)
3. [Open Door](#)
4. [Record Retention and Destruction](#)
5. [Respectful Place to Work](#)
6. [Whistle Blowing Disclosures](#)

### *Forms:*

1. [Coaching Form](#)
2. [Corrective Action Form](#)
3. [Complain of Harassment Form](#)
4. [Garrity Statement of Rights](#)
5. [Investigation Expectations Form](#)

*Misc.:*

1. [Corrective Action Guidance](#)
2. [Garrity Rights](#)

**CREATION (Original):**

This administrative regulation is in effect as of the date of my signature. I authorize the Human Resource Director to modify the history and resources sections and header, footer, and numbering without my reauthorization. The administrative regulation remains in effect should these revisions occur.			
<b>Approved By:</b>	Gino Grimaldi, City Manager	<b>Dates:</b>	3/20/2018
<b>Author:</b> Chaim Hertz, Director of Human Resources			
<b>Responsible Party:</b> Human Resources			
<b>Replaces:</b> N/A			

**PERIODIC REVIEW:**

<b>Reviewer:</b>	Chaim Hertz, Director of Human Resources	<b>Date:</b>	9/28/2021
<b>Reviewer:</b>	Chaim Hertz, Director of Human Resources	<b>Date:</b>	July 5, 2022
<b>Reviewer:</b>		<b>Date:</b>	
<b>Reviewer:</b>		<b>Date:</b>	
<b>Reviewer:</b>		<b>Date:</b>	

**REVISIONS:**

<b>Version #2:</b>	<b>Responsible Party:</b>			
	<b>Revised By:</b>			
	<b>Approved By:</b>		<b>Date:</b>	
	<b>Reason/Summary of Changes:</b>			